

(2018) 01 KL CK 0026
In the High Court Of Kerala
Case No : 22603 of 2016

RAJU D VALLIKAPPAN

APPELLANT

Vs

STATE OF KERALA & ANR.

RESPONDENT

Date of Decision : 15-01-2018

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 321](#) - Withdrawal from prosecution
[Indian Penal Code, 1860](#), [Section 147](#),
[Section 447](#), [Section 148](#) Sec

Citation : (2018) 01 KL CK 0026

Hon'ble Judges : B.Kemal Pasha

Bench : Single Bench

Advocate : K.SHAJ, SAJJU.S, K.V.SOHAN

Final Decision : Allowed

Judgement

1. The petitioner in W.P.(C)No.22603 of 2016 is the defacto complainant in C.C.No.380 of 2014 of the Judicial First Class Magistrate's Court-

I, Manjeri, based on Exhibit-P6 Final Report in Crime No.293 of 2013 of the Karuvarakundu Police Station, for the offences under Sections 143,

147, 148, 447, 427, 506(ii) and 294(b) IPC read with Section 149 IPC. The petitioner in W.P.(C)No.22609 of 2016 is the defacto complainant

in C.C.No.379 of 2014 of the Judicial First Class Magistrate's Court-I, Manjeri, based on Exhibit-P2 Final Reports in Crime No.292 of 2013 of

the Karuvarakundu Police Station, for the offences under Sections 143, 147, 148, 447, 427 and 506(ii) IPC read with Section 149 IPC.

2. Under the guise of widening a Panchayath Road, the accused had trespassed into the property of the petitioners and reduced a large extent of

the property of the petitioners as a road. Severe mischiefs were committed.

Trees were cut and removed. Boundary wall extending 160 metres was demolished and destroyed. Strangely enough, the accused themselves video-graphed the entire trespass and mischiefs and published it through social media. According to the learned counsel for the petitioners, still the said video is available in the social media.

3. When complaint was filed by the petitioners regarding the first incident, immediately in the next week, again severe trespass was committed and mischief was repeated. The same was also pictured through videograph by the accused themselves. The Police did not conduct a proper investigation on account of the political clout of the accused. Subsequently, by alleging that it is for a Project, the portions reduced as road was allegedly taken over by the Agency specially created for the construction of road and a new wall was constructed, thereby enclosing the portions trespassed upon as the portions of the road.

4. The petitioners were running from pillar to post for getting justice. The District Collector conducted an enquiry and has reported that the portions presently lying as road are the property of the petitioners and the compound wall has been constructed through the property of the petitioners. When the petitioners received summons from the court below in C.C.No.379 of 2014 and C.C.No.380 of 2014, the petitioners obtained copy of the Final Reports and then only they could see that apart from their own statements, the investigating officer has not recorded the statement of any other witnesses and has also not obtained the videograph from the social media, which is still available. Even attempts were there from the part of the Government at the instance of the accused to get the prosecutions withdrawn. Due to the complaints preferred by the petitioners before the court below, the said attempt under Section 321 Cr.P.C. could not succeed.

5. On going through the matter, it is evident that there was no proper investigation in the cases and no investigation at all was conducted. The investigation was with a view to aiding the accused. Therefore, the Final Reports in Crime Nos.292 of 2013 and 293 of 2013 of Karuvarakundu Police Station are liable to be quashed for enabling a reinvestigation in the matter by the State Crime Branch. In the result, these Writ Petitions are allowed and all further proceedings in C.C.Nos.379 of 2014 and 380 of 2014 are

quashed and the Final Reports in the said crimes are quashed.

The State Crime Branch is ordered to take up reinvestigation of these cases expeditiously and they shall conduct a proper investigation by an

officer not below the rank of a Circle Inspector of Police, and file proper Final Reports.